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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/596,111	03/06/2007	**Rolf Neumann**	PHDE030400US	2170

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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EXAMINER	
RAJAN, KAI	

ART UNIT	PAPER NUMBER
3736	

MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/596,111	NEUMANN, ROLF	
	Examiner	Art Unit	
	Kai Rajan	3736	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *31 May 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1 - 18* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1 - 18* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *31 May 2006* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☒ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *5/31/2006*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because:

Reference characters "28" and "30" have both been used to designate loudspeaker; and

Reference characters "32" and "34" have both been used to designate LED.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description:

Item 44 of figure 1 is missing from the specification.

Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 – 3 and 6 – 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Schulze et al. U.S. Patent No. 6,893,396.

1. A medical measuring device comprising at least one measuring apparatus, which has at least one sensor for generating a measuring signal of a patient and a measuring data detection device which is designed to exchange measuring signals with the at least one measuring apparatus via an., wireless communication, wherein the at least one measuring apparatus is designed to signal the quantity of the measuring signals (Figures 1, 6).

2. The medical measuring device as claimed in claim 1, wherein the at least one measuring apparatus is designed to signal the quality of the measuring signals acoustically (Column 17 lines 49 – 67).

3. The medical measuring device as claimed in claim 1 wherein the at least one measuring apparatus is designed to signal the quality of the measuring signals optically (Figure 6).

6. The medical measuring device as claimed in claim 1, wherein the at least one measuring apparatus is designed to signal the quality of the measuring signals automatically (Column 16 lines 51 – 67, table 1).

7. The medical measuring device as claimed in claim 6, wherein the at least one measuring apparatus is designed to signal the quality of the measuring signals when it is placed on a patient at another measuring site (Column 16 lines 51 – 67, table 1).

8. The medical measuring device as claimed in claim 1 wherein the at least one measuring apparatus is designed to signal the quality of the measuring signals; when a substantial change in the quality of the measuring signals is detected (Column 16 lines 51 – 67, table 1, figure 6).

9. The medical measuring device as claimed in claim 1, wherein the at least one measuring apparatus is designed to signal the quality of the measuring signals on demand (Column 16 lines 51 – 67, table 1, figure 6).

10. The medical measuring device as claimed in claim 1, wherein the at least one measuring apparatus is designed to signal the quality of the measuring signals in such a way that falling below a predetermined signal quality is signaled (Column 16 lines 51 – 67, table 1, figure 6).

11. The medical measuring device as claimed in claim 1, wherein the at least one measuring apparatus is designed to signal the quality of the measuring signals on the basis of an evaluation of one or more perfusion index, transmission level, interference level, and signal form (Column 16 lines 51 – 67, table 1, figure 6).

12. The medical measuring device as claimed in claim 1, wherein the at least one measuring apparatus is a pulsoximeter an ECG recorder and/or ultrasound measuring head (Figure 2).

13. A medical measuring device comprising at least one measuring apparatus including one or more sensors designed to contact a portion of a patient; and

a measurement display apparatus that displays measurement data wirelessly transferred from the at least one measuring apparatus (Column 5 lines 7 – 67, column 6 lines 1 – 65);

wherein the at least one measuring apparatus includes a means for determining and a means for signaling a signal quality of the measurement data (Column 16 lines 51 – 67, table 1, figure 6).

14. The medical measuring device of claim 13, wherein the means for signaling the signal quality generates an acoustic signal (Column 17 lines 49 – 67).

15. The medical measuring device of claim 13, wherein the means for signaling the signal quality generates an optical signal (Column 16 lines 51 – 67, table 1, figure 6).

16. A medical measurement device comprising at least one measurement apparatus including a means for wirelessly transmitting medical data to a remote site, one or more sensors for measuring medical data, and a means for determining and a means for signaling a signal quality of the medical data (Column 5 lines 7 – 67, column 6 lines 1 – 65, column 16 lines 51 – 67, table 1, figure 6).

17. The medical measuring device of claim 16, wherein the means for signaling the signal quality generates an acoustic signal (Column 17 lines 49 – 67).

18. The medical measuring device of claim 16, wherein the means for signaling the signal quality generates an optical signal (Column 16 lines 51 – 67, table 1, figure 6).

Claims 1, 6 – 13, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Khair et al. U.S. PGPub No. 2002/0109621.

1. A medical measuring device comprising at least one measuring apparatus, which has at least one sensor for generating a measuring signal of a patient and a measuring data detection device which is designed to exchange measuring signals with the at least one measuring apparatus via an., wireless communication, wherein the at least one measuring apparatus is designed to signal the quantity of the measuring signals (Paragraphs 0039 – 0045, 0112).

6. The medical measuring device as claimed in claim 1, wherein the at least one measuring apparatus is designed to signal the quality of the measuring signals automatically (Paragraphs 0039 – 0045, 0112).

7. The medical measuring device as claimed in claim 6, wherein the at least one measuring apparatus is designed to signal the quality of the measuring signals when it is placed on a patient at another measuring site (Paragraphs 0039 – 0045, 0112).

8. The medical measuring device as claimed in claim 1 wherein the at least one measuring apparatus is designed to signal the quality of the measuring signals; when a substantial change in the quality of the measuring signals is detected (Paragraphs 0039 – 0045, 0112).

9. The medical measuring device as claimed in claim 1, wherein the at least one measuring apparatus is designed to signal the quality of the measuring signals on demand (Paragraphs 0039 – 0045, 0112).

10. The medical measuring device as claimed in claim 1, wherein the at least one measuring apparatus is designed to signal the quality of the measuring signals in such a way that falling below a predetermined signal quality is signaled (Paragraphs 0039 – 0045, 0112).

11. The medical measuring device as claimed in claim 1, wherein the at least one measuring apparatus is designed to signal the quality of the measuring signals on the basis of an evaluation of one or more perfusion index, transmission level, interference level, and signal form (Paragraphs 0039 – 0045, 0112).

12. The medical measuring device as claimed in claim 1, wherein the at least one measuring apparatus is a pulsoximeter an ECG recorder and/or ultrasound measuring head (Paragraphs 0039 – 0045, 0112).

13. A medical measuring device comprising at least one measuring apparatus including one or more sensors designed to contact a portion of a patient; and

a measurement display apparatus that displays measurement data wirelessly transferred from the at least one measuring apparatus (Figure 1);

wherein the at least one measuring apparatus includes a means for determining and a means for signaling a signal quality of the measurement data (Paragraphs 0039 – 0045, 0112).

16. A medical measurement device comprising at least one measurement apparatus including a means for wirelessly transmitting medical data to a remote site, one or more sensors for measuring medical data, and a means for determining and a means for signaling a signal quality of the medical data (Paragraphs 0039 – 0045, 0112, figure 1).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schulze et al. U.S. Patent No. 6,893,396.

In regards to claim 4, Schulze et al. discloses a visual indicator for the signal quality of a medical data transmission. The indicator is in the form of three terms, "OK," "WEAK," and "NONE." (Figure 6, table 1). Schulze et al. fails to disclose the indicator comprising different colors to differentiate between quality levels. However, it would have been obvious to one of ordinary skill in the art at the time of the invention to substitute the indicator of Schulze et al. with an indicator comprising different colors, since both provide equivalent function and the expected results of differentiating between three different quality levels of the transmission. The appearance of the visual indicator is merely a design choice. Furthermore, Applicant has not provided reasoning within the disclosure of the specification as to why a color coded indicator would be crucial to the invention over other visual indicators known in the art.

5. The medical measuring device as claimed in claim 4, wherein three different colors are provided for a range of poor quality, a range of medium and a range of high quality of the measuring signals (Figure 6, table 1).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kai Rajan whose telephone number is (571)272-3077. The examiner can normally be reached on Monday - Friday 9:00AM to 4:00PM.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kai Rajan/
Examiner, Art Unit 3736

/Michael C. Astorino/
Primary Examiner, Art Unit 3736

May 28, 2008